

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

§
§
§
§
§
§

v.

CAUSE NO. 1:21-CR-00223-LY

MATTHEW TUNSTALL

DEFENDANT'S UNOPPOSED MOTION FOR EXTENSION OF DEADLINES

**TO THE HONORABLE JUDGE YEAKEL, UNITED STATES DISTRICT JUDGE FOR
THE WESTERN DISTRICT OF TEXAS:**

Defendant, Matthew Tunstall (“Mr. Tunstall”), by and through counsel, files this Unopposed Motion for Extension of Deadlines and in support shows the following:

I.

Undersigned counsel was appointed to Mr. Tunstall’s case on **November 15, 2021**. The Government provided its first batch of discovery materials on **November 23, 2021** (comprising over 25,000 pages of data), and it is counsel’s understanding that additional voluminous discovery will be provided by the Government in the coming weeks. Given the volume of data that must be reviewed before motions can be filed, counsel requests an extension of at least 90 days to adequately investigate the case, draft and file appropriate motions, and to prepare for trial.

II.

This case currently has a pretrial motions deadline of **December 2, 2021**. A hearing on all pending motions and docket call is currently set for **January 13, 2022 at 9:30 a.m.**, and Jury Selection and Trial is currently set **on February 7, 2022 at 9:00 a.m.**

III.

Undersigned counsel requests that the above trial date – and all pending deadlines, including Mr. Tunstall’s pretrial motions deadline – be extended by at least ninety (90) days for the following reasons:

1. The discovery in this case is voluminous. Counsel has received over 25,000 pages of discovery and needs additional time to review each document. Counsel also understands that additional discovery materials will be provided in the coming weeks, which will be similarly voluminous. The current deadlines would deny defense counsel reasonable time necessary for effective preparation. *See* 18 U.S.C. 3161(h)(7)(B)(iv).¹
2. Counsel has a scheduling conflict. Counsel is currently set for jury trial in *United States v. Sealed* (1:20-CR-00290-LY) on February 7, 2020 – coinciding with the current trial setting in this matter.

IV.

Undersigned counsel requests that the Court extend all deadlines in this case – including pretrial motions – by at least ninety (90) days.

V.

Trial Attorney for the Department of Justice, Rebecca Schuman, was contacted about this Motion, and the Government is unopposed to extending all deadlines by 90 days.

VI.

This Motion is made not for the purpose of delay but so that justice may be done.

¹ See *Wiggins v. Smith*, 539 U.S. 510, 534 (2003) (failure to investigate is not reasoned strategic judgment); *Rompilla v. Beard*, 545 U.S. 374, 395-96 (2005) (O’Connor, concurring) (finding ineffective assistance when defense counsel failed to properly investigate critical issue); *Sims v. Livesay*, 970 F.2d 1575, 1580-81 (6th Cir.1992) (defense counsel ineffective for failure to conduct an independent investigation and failed to ask a defense expert to examine the evidence); *Driscoll v. Delo*, 71 F.3d 701, 709 (8th Cir.1995) (defense counsel’s failures to prepare for the introduction of scientific evidence and “to subject the state’s theories to the rigors of adversarial testing” constituted ineffective assistance).

WHEREFORE, PREMISES CONSIDERED, Movant prays for the Court to extend all deadlines in this matter by at least ninety (90) days.

Respectfully submitted,

SUMPTER & GONZÁLEZ, L.L.P.
3011 North Lamar, Ste. 200
Austin, Texas 78705
Telephone: (512) 381-9955
Facsimile: (512) 485-3121

By: /s/ Worth Carroll
Worth Carroll
State Bar No. 24091192
worth@sg-lp.com

ATTORNEY FOR DEFENDANT
MATTHEW TUNSTALL

CERTIFICATE OF SERVICE

By my signature below, I do hereby certify that on December 1, 2021, a true and correct copy of the foregoing Unopposed Motion for Extension of Deadlines was filed using the Court's electronic filing system, which will provide notice to all parties of record, specifically:

Michael Lang
Rebecca Schuman
United States Department of Justice
Criminal Division – Public Integrity Section
1400 New York Avenue NW
Washington DC, 20005
Michael.Lang@usdoj.gov
Rebecca.Schuman@usdoj.gov

/s/ Worth D. Carroll
Worth Carroll

CERTIFICATE OF CONFERENCE

Counsel for Mr. Tunstall discussed his request for an extension of deadlines on November 31, 2021 with counsel for the Government, and the Government is unopposed to a 90-day extension.

/s/ Worth D. Carroll
Worth D. Carroll

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

v.

MATTHEW TUNSTALL

§
§
§
§
§
§

CAUSE NO. 1:21-CR-00223-LY

ORDER

CAME ON for hearing on _____, 2021 the foregoing Defendant's Unopposed Motion for Extension of Deadlines, and the Court finds that for the reasons stated in the Defendant's motion, the ends of justice served by the extension outweigh the best interest of the public and the Defendant in a speedy trial.

The Court further finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the period of delay resulting from this extension shall be excluded in computing the time within which the trial must commence under the Speedy Trial Act.

IT IS ORDERED THAT the pretrial motions deadline is continued until the ___ day of ___ , 2022, the hearing on all pending pretrial motions/docket call is continued until the ___ day of ___ , 2022, and that jury selection/jury trial is continued until the ___ day of ___ , 20___.

SIGNED on _____.

JUDGE YEAKEL